

DEC 18 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

**RAFAELA ANTONIO PABLO; ISAAC
ESTEBAN ANDRES ANTONIO; KEZY
ESTEBAN ANDRES ANTONIO,**

Petitioners,

v.

JOHN ASHCROFT, Attorney General,

Respondent.

No. 02-72264

INS No. A75-616-107

A75-616-108

A75-616-109

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 3, 2003**
Pasadena, California

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Before: **BEEZER** and **KOZINSKI**, Circuit Judges, and **SCHWARZER**,
Senior District Judge. ***

The BIA did not err in denying petitioner's¹ request for asylum because substantial evidence, see INS v. Elias-Zacarias, 502 U.S. 478, 481 (1992), supports its finding that changed conditions rebutted the presumption of a well-founded fear of future persecution, see 8 C.F.R. § 208.13(b)(1)(i)(A). A fortiori, the BIA did not err in denying petitioner's request for withholding of removal. See Del Valle v. INS, 776 F.2d 1407, 1410-11 (9th Cir. 1985). Nor did the BIA abuse its discretion in denying petitioner's request for asylum on humanitarian grounds because petitioner has not demonstrated that she suffered persecution severe enough to warrant such relief. See 8 C.F.R. § 208.13(b)(1)(iii).

Petitioner is not entitled to protection under the Convention Against Torture because, as petitioner concedes, the regulations pertaining to withholding of removal under the Convention Against Torture were not in effect when she

*** The Honorable William W Schwarzer, Senior United States District Judge for the Northern District of California, sitting by designation.

¹ Petitioner's two minor children were also included in her asylum claim and were subject to removal proceedings. The children's claim is derivative of her claim, and they are entitled to the same status she receives. 8 U.S.C. § 1158(b)(3).

submitted her asylum application and she did not move to reopen the proceedings.

See 8 C.F.R. § 208.18(b)(2).

PETITION DENIED.